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"THE NEXT TWO YEARS"

OCT 25 '77

STATE DOCUMENTS

STATEMENT BY

GOVERNOR THOMAS L. JUDGE

TO

MONTANA COMMISSION ON LOCAL GOVERNMENT

May 9, 1975

Printed and distributed by the
Commission on Local Government
Helena, Mt. 59601

The preparation of this document was financed in part through a Comprehensive Planning Assistance Grant from the United States Department of Housing and Urban Development, under the provisions of Section 701 of the Housing Act of 1954, as amended.

THE RECORD OF THE FIRST YEAR

The State Commission on Local Government organized and began work just one year ago. Because of your initiative, much has happened in that one short year. Much more will happen in the next two years of our three year program to modernize local government in Montana.

The Montana Legislature has just adopted, and I have signed, three major bills developed by the State Commission. The three bills provide the framework for a new system of state-local relations in Montana. Our new system rejects the principle that local governments have only that authority granted to them by state law and creates a new system of structural and functional home rule. The new Montana legislation creates the first totally new system of state-local relations since the adoption of the Alaska Constitution in the fifties.

While these three pieces of legislation constitute the key-stone of our program to revitalize Montana local governments and make local governments effective partners of the State, the real significance of our program of local government reform is reflected in other events in Montana. A local government study commission has been elected in each of the 182 cities, towns and counties of Montana. The 632 members of these study commissions have begun the task of studying the structure, power and authority of their existing governments as a prelude to selecting and submitting an alternative form of local government to the voters of their city, town or county in 1976. The study commissions may modify an alternative form of government for submission to their voters; they may write a charter or suggest any form of city-county consolidation or confederation. In addition to the requirement that a new form of government be submitted to the electors in 1976, the study commission may recommend that the voters adopt functional home rule and may propose functional transfers between units of local government.

No other state has ever required a systematic review of its local governments by local citizen commissions. No other state has provided a systematic opportunity for citizens of each city, town and county to vote on adopting a new form of government. I believe that we have created a practical and imaginative method for revitalizing local governments through direct citizen involvement and technical assistance provided by the state. I hope this concentrated effort will overcome the traditional inertia of city, town and county government.

The 182 city, town, and county study commissions are funded under a program of matching state and local funds. The state has appropriated and local governments have matched over a million dollars to fund the work of the study commissions through 1976. In addition to financial assistance, your staff is providing direct technical assistance to the study commissions through preparation of publications, regional workshops and staff visits. No other state has ever undertaken a statewide systematic program to reform local government structure and functions. Our Montana program is already being recognized as an innovative approach that could be emulated by other states.

RECOMMENDATIONS FOR THE NEXT TWO YEARS

You have accomplished every item I recommended to you in 1974. I am taking the liberty to outline what I feel should be your objectives for your next two years of operation.

(1) Revised Code of Local Government Law. Of primary importance is the preparation of the "revised code of local government law" you must present to the 1977 legislative session. You should complete the preliminary drafts of this code so that extensive public hearings can be held in 1976 prior to your final report to the Legislature.

The new code should be based on a careful study of the impact of existing laws on local government management, structure, powers, services, finance and state-local relations. As contemplated by House Bill 178, which I recently signed, you should prepare a new code of local government law, not merely recodify or rearrange the existing confusion. The new code, in the form authorized by the 1975 Legislature, will combine the now separate municipal and county codes into a single code. This joint code should greatly enhance the authority of county governments and should give them the structure and authority to act as effective area-wide and urban multi-purpose units of local government. The new code is necessitated by the 1972 Constitutional grant of legislative, i.e. "ordinance", authority to county government. Since very few states have granted counties legislative authority, the implementation of this important power in Montana has national implications.

(2) Study of Local Government Finance. I am looking forward to receiving a recommendation from the commission on alternative sources of revenue for county and municipal governments.

The 1960's saw the widespread acceptance in other states of the principle that the state should assume a larger proportion of the costs of schools and local governments. This trend was in response to the sharply rising property tax and was an attempt to make state and local tax systems more progressive by reducing their dependence on the property tax. Nationally, in 1961, property taxes, accounted for 46 percent of all state and local tax collections, but in 1973, they accounted for only 38 percent--a drop of eight percentage points in 12 years. In Montana, the 1973 property taxes still amounted to over 51 percent of all state and local taxes.

As with other authority under the 1889 Constitution, local governments in Montana had only that authority to tax which was granted to them by the Legislature. Under the 1972 Constitution, local governments retaining granted powers will still have only that authority to tax which is granted to them by the Legislature. But local governments adopting a self-governing form, acquiring shared or residual powers, will have all taxing authority not denied them by state law. The state must devise a coordinated tax structure for all local governments, including both those with granted powers and those with shared or residual powers.

(2) cont. During the next two years, I encourage you to complete your study of local government revenue and expenditures. You are to be congratulated for your efforts in collecting data that will, for the first time, provide the state with an accurate profile of city, town and county government finance. At a minimum, you should consider the following options:

(a) You should consider increased flexibility for local governments in using the property tax. For example, you should consider authorizing a county all-purpose mill levy, increasing the maximum all-purpose levy for municipalities, establishing a county-wide mill levy limit for all types of property taxes, or abolishing state limits on local mill levies.

(b) You should consider the possibility of state-local revenue sharing programs, both general and categorical.

(c) You should also review reforms to allocate among the state, counties and municipalities the local responsibility for providing and financing governmental services.

(d) Finally you should recommend reform of the administration of local government finance to facilitate maximum use and management of revenue. Reforms are needed in budgeting, accounting, auditing, investment, reporting and capital financing procedures. As an example, budget procedures could be improved by incorporation of planning and program budgetary principles in the local government budget law and a procedure to complete local government budgeting prior to the beginning of the new fiscal year is needed.

(3) Study of Local Government Services. My 1974 paper, Local Government Modernization: Why It Cannot Wait, outlined the task you need to undertake in studying local government services. The following statement is from that paper.

"Closely related to the question of local government powers are the questions concerning what services local government should provide and which local units should provide them. Citizen satisfaction with local government ultimately rests on the quality, quantity and economy of services provided. Yet Montana cities, towns and counties are not authorized to provide some much-needed services and do not have the financial resources to provide properly many others. In numerous cases, services that could be rendered only economically and efficiently on a county-wide basis are allowed only on a city-wide basis; in other instances services now provided by counties perhaps could more reasonably be provided on a state or district level; and perhaps some services now provided by state government should be transferred to local units, thus bringing them closer to the people.

At present, local units often serve as administrative agents of the state in performing services. For example, county governments have a major role in running state and national elections. In other instances, local units provide for strictly local needs,

such as fire protection, parks and recreation, water supply and sewage disposal. Supplying both types of services is complicated by the diversity of Montana local governments. Some Montana local government units find their sparse populations decreasing rapidly, resulting in steeply increasing per capita costs of government. Others are undergoing rapid development with great demands for urban services in previously rural areas. New methods must be devised to provide efficient and economical service to both types of areas without sacrificing local voter control over these services.

State-level action is essential in four major areas:

(a) The state, for the first time in its history, must determine specifically what services are now being provided by federal, state, county, city and town and special district governments, as well as those provided through quasi-official groups supported by government grants or contracts.

(b) These services must be studied in terms of what additional services should be authorized and which levels of government should provide those services. At what level should welfare programs be provided? Should federal, state, county and city and town governments have separate responsibilities for road programs? Who should be responsible for planning and zoning? These and many similar questions must be considered.

(c) Services also must be studied in terms of improving the mechanisms for providing them. In some instances, cumbersome mechanisms required by state law may make the delivery of local services impossible, and frequently new techniques have not been considered.

(d) Ways in which governments may cooperate in providing services must be expanded, and such cooperation must be encouraged. Included in this study should be joint action, inter-local agreements, sale of services, transfer of functions and use of the proposed multi-county district organizations. The 1972 Constitution opens the door wide for such cooperation by authorizing local units to cooperate in virtually any way unless prohibited from doing so by the state."

I strongly support the Housing and Community Development Act Innovative Grant application you have prepared to fund this comprehensive study of local government services.

(4) Study of State-Local Relations. I endorse the recommendations in Professor William Crowley's paper on the reorganization of the Department of Intergovernmental Relations. The 1975 Legislature, at my recommendation, has taken the first step towards reorganizing the Department of Intergovernmental Relations into a true Department of Community Affairs by changing its name to reflect its new responsibilities. Professor Crowley recommended that the State Commission on Local Government study possible new functions for the Department of Community Affairs.

(4) cont. It is important for us to determine what technical assistance the state is providing local governments, what technical assistance is needed and desired and how that assistance can best be provided.

Again, I support your HUD application to fund research on the possible functions of the Department of Community Affairs.

(5) Assistance to Local Study Commissions. Perhaps your most demanding responsibility will be your responsibility to assist the 182 city, town and county study commissions. Even though we have provided state financial assistance and the study commissions consist of energetic, imaginative and conscientious citizens, these study commissions still need comprehensive assistance from your staff to complete their work in a timely and creative fashion. I commend you for the excellent consulting program and encourage you to extend and broaden your assistance to local commissions. The success of the local study commissions will continue to depend on state assistance as well as local initiative.

(6) Public Information. It is essential that you continue and expand your efforts to provide information to Montana citizens on the Voter Review Process. Local study commissions have a primary responsibility to develop methods for keeping the public informed on their work. The public, as citizens, have a responsibility to become informed. You and the state media can and should assist the study commissions and citizens in meeting their respective responsibilities.

The University of Montana Bureau of Government Research has been especially helpful in preparing material for public distribution. They are to be complimented on their significant contribution to public education. Other university and college units and private groups have made significant attempts to educate the public to the opportunities of the Voter Review Process.

During the next two years, the news media; university and college groups; public interest groups, such as the League of Women Voters and Common Cause; civic groups, such as Kiwanis and Jaycees, both the Republican and Democratic Parties; and other interest groups, such as the State Chamber of Commerce and the AFL-CIO, should be encouraged to develop major public information programs of their own.

I have asked the Montana Bicentennial Administration to work with you to develop citizen participation in the Voter Review Process as a theme for Montana's celebration of the Bicentennial of the American Revolution. What better way to celebrate the 200th anniversary of our great nation and to launch into our third century than to issue the challenge to each and every citizen to participate in the renewal and improvement of his local government?

Thomas Jefferson once wrote:

I am not an advocate of frequent changes in laws and constitutions. But laws and institutions must go hand in hand with the progress of the human mind...As new discoveries are made, new truths disclosed, and manners and opinions change with the change of circumstances, institutions must advance also, and keep pace with the times...Each generation...has the right to choose for itself the form of government it believes the most promotive of its own happiness...

In 1972, Montanans ratified a new Constitution that is in keeping with Jefferson's challenge to succeeding generations of Americans. Our state Constitution now gives local governments the opportunity to assume responsibilities formerly reserved by the state. However, this opportunity requires citizen response; that is the challenge we must face. Now is the time for Montanans to mold the grant of new local government powers into systems of local government capable of more adequately meeting the needs of contemporary Montana communities.

It is an exciting opportunity to be part of democracy in action. The spirit which moved the framers of the Constitution 200 years ago is at work in Montana today. However, if the process is to be successful, all Montanans must come to understand the importance of their involvement in the local government review.

Every group in the state should be encouraged to emphasize the importance of the next two years in determining the future of local government in Montana.

Your staff has and can continue to plan an important roll in coordinating the efforts of other groups.

CONCLUSION

The tasks outlined for research and legislative action are tremendous. The scope of work parallels that of executive reorganization or constitutional revision. In a sense it is even broader, for the process ultimately must involve every unit of local government in Montana.

The process of modernizing local government must involve all Montanans. Citizen participation began with the election of city, town and county study commissions in November of 1974 and must continue until the vote on alternative forms of government in each city, town and county in 1976.

Throughout the task of revising state statutes and the work of local study commissions, the input of concerned citizens will be essential.

The scope of reform will ultimately depend on an informed citizenry, for they are the ones who will vote on the new forms of local government in 1976. Because of the responsibility of all citizens for those important decisions, it is also their responsibility to develop a sound understanding of the issues, alternatives and opportunities involved, but even more it is your responsibility to keep Montanans informed. As I said in 1973: "This is a task for all Montanans. It cannot wait."

I am confident your efforts, together with the concern and contribution of many more Montanans, will permit local governments to be partners--not step children--of the state.